

INTRODUCTION

I. OVERVIEW

The Federal regulations at 15 CFR 923.80 through 923.84 require states with approved coastal management programs to submit any changes or amendments to their coastal management programs to the Office of Ocean and Coastal Resource Management so that they can determine if the program, after the change, remains approvable. Amendments are defined at 15 CFR 923.80(d) as substantial changes in, or substantial changes related to: (1) uses subject to management; (2) special management areas; (3) boundaries; (4) authorities and organization; and (5) coordination, public involvement and national interest.

In compliance with the above regulations, the New Jersey Department of Environmental Protection is proposing to amend New Jersey's Federally approved Coastal Management Program to incorporate: (1) the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B and Freshwater Wetlands Protection Act rules, N.J.A.C. 7:7A for non-assumable waters; (2) the Department's dredging technical manual, titled "The Management and Regulation of Dredging Activities and Dredged Material Disposal in New Jersey's Tidal Waters," dated October 1997; and (3) rulemaking actions specified below amending the Coastal Permit Program rules, N.J.A.C. 7:7, and the Coastal Zone Management rules, N.J.A.C. 7:7E. Information on each of the proposed changes follows.

Section 404 Program

The State of New Jersey assumed the Section 404 Program under the Clean Water Act on March 2, 1994 for discharges of dredged or fill material into waters of the United States in New Jersey that are not presently used, or susceptible for use, in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to the ordinary high water mark, including wetlands adjacent thereto where the United States Army Corps of Engineers retains jurisdiction. Pursuant to Section 307(f) of the Federal Coastal Zone Management Act, 16 U.S.C. 1456(f), the State's Federally approved Section 404 Program including the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B and Freshwater Wetlands Protection Act rules, N.J.A.C. 7:7A was incorporated into New Jersey's approved Coastal Management Program. This incorporation was effective as of the date of assumption of the Federal 404 Program, March 2, 1994. In non-assumable waters and adjacent wetlands both a State Freshwater Wetlands permit and a Federal 404 Permit issued by the United States Army Corps of Engineers are required. Pursuant to 15 CFR 923.80-923.84, the State of New Jersey is now proposing to incorporate the Freshwater Wetlands Protection Act and regulations for those waters which were not assumed, that is those waters for which the United States Army Corps of Engineers retains jurisdiction.

Dredging Technical Manual

The Department is proposing to amend New Jersey's Federally approved Coastal Management Program to incorporate the Department's dredging technical manual, titled "The Management and Regulation of Dredging Activities and Dredged Material Disposal

in New Jersey's Tidal Waters," dated October 1997. This technical manual provides guidance on dredged material sampling, testing, transporting, processing, management and placement. This manual is used by the Department's Office of Dredging and Sediment Technology to provide sampling guidance to applicants who propose dredging in New Jersey's waters and to evaluate results of dredged material sampling and disposal options.

Regulatory Amendments

The Department is proposing to amend the Coastal Management Program to reflect certain rulemaking actions, listed below, that occurred in February 2003 to the Coastal Zone Management rules, N.J.A.C. 7:7E and Coastal Permit Program rules, N.J.A.C. 7:7.

(A) Adopted Regulatory amendments to the Coastal Zone Management rules, N.J.A.C. 7:7E, adopted February 3, 2003

Surf clam areas, N.J.A.C. 7:7E-3.3; Navigation channels, N.J.A.C. 7:7E-3.7; Inlets, N.J.A.C. 7:7E-3.9; Ports, N.J.A.C. 7:7E-3.11; Submerged infrastructure routes, N.J.A.C. 7:7E-3.12; Shipwrecks and artificial reef habitats, N.J.A.C. 7:7E-3.13; Historic and archaeological resources, N.J.A.C. 7:7E-3.36; Endangered or threatened wildlife or plant species habitats, N.J.A.C. 7:7E-3.38; Critical wildlife habitats, N.J.A.C. 7:7E-3.39; Wild and scenic river corridors, N.J.A.C. 7:7E-3.46; Purpose and scope, N.J.A.C. 7:7E-3C.1; Standards for conducting Endangered or Threatened Wildlife or Plan Species Habitat Impact Assessments, N.J.A.C. 7:7E-3C.2; Standards for conducting Endangered or Threatened Wildlife Species Habitat Evaluations, N.J.A.C. 7:7E-3C.3; Standards for reporting the results of impact assessments and habitat evaluations, N.J.A.C. 7:7E-3C.4; Purpose and scope, N.J.A.C. 7:7E-4.1; Aquaculture, N.J.A.C. 7:7E-4.2; Boat Ramps; N.J.A.C. 7:7E-4.3; Docks and piers for cargo and commercial fisheries, N.J.A.C. 7:7E-4.4; Recreational docks and piers, N.J.A.C. 7:7E-4.5; Maintenance dredging, N.J.A.C. 7:7E-4.6; New dredging, N.J.A.C. 7:7E-4.7; Dredged material disposal, N.J.A.C. 7:7E-4.8; Solid waste or sludge dumping, N.J.A.C. 7:7E-4.9; Filling, N.J.A.C. 7:7E-4.10; Mooring, N.J.A.C. 7:7E-4.11; Sand and gravel mining, N.J.A.C. 7:7E-4.12; Bridges, N.J.A.C. 7:7E-4.13; Submerged pipelines, N.J.A.C. 7:7E-4.14; Overhead transmission lines, N.J.A.C. 7:7E-4.15; Dams and impoundments, N.J.A.C. 7:7E-4.16; Outfalls and intakes, N.J.A.C. 7:7E-4.17; Realignment of water areas, N.J.A.C. 7:7E-4.18; Breakwaters, N.J.A.C. 7:7E-4.19; Submerged cables, N.J.A.C. 7:7E-4.20; Artificial reefs, N.J.A.C. 7:7E-4.21; Miscellaneous uses, N.J.A.C. 7:7E-4.22; Rule on location of linear development, N.J.A.C. 7:7E-6.1; Basic Location rule, N.J.A.C. 7:7E-6.2; and Secondary impacts, N.J.A.C. 7:7E-6.3; Dredged material placement on land, N.J.A.C. 7:7E-7.12; and Marine fish and fisheries, N.J.A.C. 7:7E-8.2.

(B) Adopted Regulatory amendments to the Coastal Permit Program rules, N.J.A.C. 7:7, adopted February 3, 2003

Purpose, N.J.A.C. 7:7-3.1; Request for a pre-application review, N.J.A.C. 7:7-3.2; and Application contents, N.J.A.C. 7:7-4.2.

II. CONCLUSION

The Department has determined that the program changes incorporating the Freshwater Wetlands Protection Act and regulations, Department's dredging technical manual and certain rulemaking actions into New Jersey's approved Coastal Management Program do not result in substantial changes to the five program approvability areas of (1) uses subject to management; (2) special management areas; (3) boundaries; (4) authorities and organization; and (5) coordination, public involvement and national interest and thus are considered a routine program change.